



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,419	02/17/2004	Lucas Everhardus Maria Langezaal	30394-1120	6291

5179 7590 04/17/2007
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
----------	--------------

3643

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/782,419

Applicant(s)

LANGEZAAL, LUCAS
EVERHARDUS MARIA

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36,37,40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) 1-35, 38, 39, 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36,37,40 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement is made of the IDS received 7 February 2007 .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36, 37, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuji et al. (US 2001/0009142 A1) in view of Rowell (US 4,258,659).

As to claims 36, 37, and 40, Otsuji et al. disclose a composition comprising a culture medium for growing plants (the mat of Otsuji et al. is capable of growing plants; Weder (US 6,071,574) discloses that growing media for plants and cat litter are interchangeable at col. 6 lines 63-65; Dent et al. (US 4,209,945) disclose that a container can hold either growing media for plants or cat litter at col. 3 lines 17-20), wherein the culture medium comprises a particulate base material of organic material, sawdust or jute (para. 34); and, a thermoplastic, biologically degradable binding agent ("processed starch" of para. 44) in an amount of no more than 25% by weight ("7 to 20%" of para. 44). Not disclosed is the organic material no more than 10 mm in size. Rowell, however, discloses an organic material that is less than 10 mm (col. 4 lines 37-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to

Art Unit: 3643

modify the organic material of Otsuji et al. by using particles less than 10 mm as disclosed by Rowell so as to increase the surface area of the particle so as to increase absorption.

As to claim 42, the limitations of claim 36 are disclosed as described above. Otsuji et al. as modified by Rowell further disclose the culture medium (1 of Fig. 4 of Otsuji et al.) partially enveloping a core of base material (4 of Fig. 4 of Otsuji et al.) which is organic (para. 78 of Otsuji et al.). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the composition of Otsuji et al. as modified by Rowell by using the same base organic material so as to reduce the need for multiple constituents.

Response to Arguments

Applicant's arguments filed 7 February 2007 have been fully considered but they are not persuasive. Applicant's arguments are: (1) no prima facie case of obviousness because instant invention is a growth medium for plants and the media of both Otsuji and Rowell are used for pet litter (Remarks page 8, 4th & 5th paras.); and, (2) no motivation to combine Otsuji and Rowell (Remarks page 8, last para.).

As to argument (1), Weder (US 6,071,574) discloses that a material can be used for both growing media for plants and cat litter col. 6 lines 63-65. Dent et al. (US 4,209,945) further disclose that a container can hold either growing media for plants or cat litter at col. 3 lines 17-20. Hence, the rejection is proper because the material disclosed by Otsuji as modified by Rowell is capable of being either a pet litter or a growing medium for animals.

Art Unit: 3643

As to argument (2), motivation is found to combine Otsuji and Rowell because both are dealing with pet litters and plant material. Rowell teaches the size of the particles that can bonded together.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

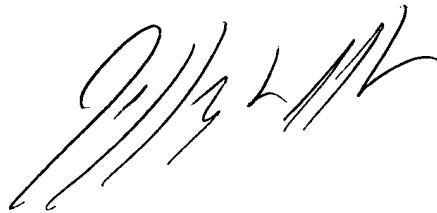
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'J. L. Gellner', is positioned to the left of the printed name.

Jeffrey L. Gellner
Primary Examiner
Art Unit 3643